

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Talero	Team: Squad #08	CCRB Case #: 202203988	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 06/19/2022 9:15 AM	Location of Incident: 63rd Precinct stationhouse	18 Mo. SOL 12/19/2023	Precinct: 63		
Date/Time CV Reported Sun, 06/19/2022 10:45 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 06/19/2022 10:45 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Anthony Rivera	25219	970138	063 PCT
2. PO Melissa Pascual	00790	961074	063 PCT
3. PO Quilbvio Espinal	13754	960506	063 PCT
4. SGT Seungwoo Seo	02678	940729	063 PCT
5. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Rosanna Blais	00118	953109	063 PCT
2. CPT Darryl Smallwood	00000	939482	062 PCT

Officer(s)	Allegation	Investigator Recommendation
A . Officers	Abuse: Officers interfered with § 87(2)(b) use of a recording device.	
B . PO Quilbvio Espinal	Abuse: Police Officer Quilbvio Espinal refused to provide his shield number to § 87(2)(b)	
C . PO Quilbvio Espinal	Abuse: Police Officer Quilbvio Espinal failed to provide § 87(2)(b) with a business card.	
D . PO Anthony Rivera	Abuse: Police Officer Anthony Rivera refused to provide his name to § 87(2)(b)	
E . PO Anthony Rivera	Abuse: Police Officer Anthony Rivera refused to provide his shield number to § 87(2)(b)	
F . PO Anthony Rivera	Abuse: Police Officer Anthony Rivera failed to provide § 87(2)(b) with a business card.	
G . SGT Seungwoo Seo	Abuse: Sergeant Seungwoo Seo interfered with § 87(2)(b) use of a recording device.	
H . PO Melissa Pascual	Abuse: Police Officer Melissa Pascual refused to provide her name to § 87(2)(b)	
I . PO Melissa Pascual	Abuse: Police Officer Melissa Pascual failed to provide § 87(2)(b) with a business card.	

Case Summary

On June 19, 2022, at approximately 9:15 a.m., § 87(2)(b) went to the 63rd Precinct stationhouse in Brooklyn to file a police report while wearing a Go-Pro camera. When he arrived, he spoke with Police Officer Melissa Pascual, Police Officer Anthony Rivera, Police Officer Quilbivio Espinal, and Sergeant Seungwoo Seo all of the 63rd Precinct. Several officers ordered § 87(2)(b) to stop recording (**Allegation A: Abuse of Authority; § 87(2)(g)**). PO Espinal allegedly refused to provide his shield number and failed to provide a business card (**Allegations B-C: Abuse of Authority; § 87(2)(g)**). PO Rivera allegedly refused to provide his name, shield number, and failed to provide a business card (**Allegations D-F: Abuse of Authority; § 87(2)(g)**). § 87(2)(b) exited the stationhouse and while he was standing on the sidewalk, Sgt. Seo once again ordered § 87(2)(b) to stop recording (**Allegations G: Abuse of Authority; § 87(2)(g)**). § 87(2)(b) left the stationhouse after receiving PO Pascual's business card but returned later that day when he could not read it. PO Pascual refused to provide her name or a legible business card (**Allegations H-I: Abuse of Authority; § 87(2)(g)**). No arrest or summons resulted from this incident.

Body-worn camera ("BWC") footage was obtained from the NYPD Legal Bureau. It is in IA #74 (**Board Review 01**) and summarized in IA#42 (**Board Review 02**). Stationhouse footage from the 63rd Precinct was obtained. It is in IAs #67-71 (**Board Review 03-07**) and summarized in IA#72 (**Board Review 08**). § 87(2)(b) recorded the incident using his Go-Pro camera, and he provided the footage to the investigation. It is in IA#54-56 (**Board Review 09-11**) and summarized in IA#57 (**Board Review 12**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Officers interfered with § 87(2)(b) use of a recording device.

Allegation (B) Abuse of Authority: Police Officer Quilbivio Espinal refused to provide his shield number to § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Quilbivio Espinal failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) testified (**Board Review 13**) that on June 19, 2022, at approximately 9:15 a.m., he went to the 63rd Precinct stationhouse to file a police report. He wore a Go-Pro camera, which was recording, attached to the left side of his belt. § 87(2)(b) entered the lobby and PO Pascual entered shortly afterwards. § 87(2)(b) and PO Pascual spoke briefly before PO Espinal, Sgt. Seo, and PO Rivera entered the lobby. PO Rivera allegedly walked in front of § 87(2)(b) gestured towards his Go-Pro camera, and said something to the effect of, "You can't be recording. You have to leave." PO Espinal pointed to a sign which said recording was not allowed in the stationhouse and read it aloud. PO Espinal began walking toward the door to the interior of the stationhouse when § 87(2)(b) said, "Give me your name, badge number, and business card." PO Espinal responded that he was not on duty, and § 87(2)(b) repeated his request for PO Espinal's name and shield number. PO Espinal allegedly mumbled his name and two numbers of his shield number and then left without providing a business card.

§ 87(2)(b) first Go-Pro video (**Board Review 09**) shows him entering the 63rd Precinct stationhouse lobby at the 01:30 minute mark. PO Pascual exits an interior door and § 87(2)(b) requests assistance with filing a police report regarding false accusations. PO Pascual smiles and says they do not take police reports for false accusations as PO Rivera enters the lobby. At 01:50, PO Rivera points toward § 87(2)(b) and asks, "Is your camera on?" § 87(2)(b) responds, "Yes." PO Pascual says, "Yeah. You can't record in here." PO Rivera repeats, "You can't record in here." PO Rivera points to a sign while Sgt. Seo, who is in uniform, and PO Espinal, who is in plainclothes, enter the front door and point to the same sign. PO Espinal says, "Right here. Public

prohibited from audio and video recording." At 02:15, PO Espinal walks toward the interior door to the stationhouse. § 87(2)(b) says, "Since you talked to me, what's your name and badge number?" PO Pascual says, "You talking to me?" At 02:18, § 87(2)(b) says, "No him," gestures toward PO Espinal, and asks him, "What's your name and badge number?" PO Espinal provides his name. At 02:22, PO Pascual says, "Sir. It's not for discussion. You cannot record in here. Step outside." While she is speaking § 87(2)(b) asks PO Espinal for his name and tells PO Pascual, "I'm asking for business card [sic]. I'm sorry, miss." At 02:29, PO Espinal says, "PO Espinal." PO Rivera says, "He's not on the clock." PO Espinal says, "I'm not on the clock." At 02:31, § 87(2)(b) asks PO Espinal, "But you're a cop, correct?" PO Espinal replies, "Yes." § 87(2)(b) says, "You told me to look at the sign, correct?" PO Espinal replies, "Yeah." § 87(2)(b) says, "So you got in an interaction with me. What's your name and badge number?" At 02:35, PO Espinal says, "PO Espinal. 1375-" § 87(2)(b) interrupts him and says "Okay" and says to PO Rivera, "And yours?" PO Rivera points to his name plate. § 87(2)(b) requests PO Rivera's name again and PO Rivera presents his shield again. PO Pascual says, "We don't have to tell you any [inaudible]." § 87(2)(b) shuts off his camera.

PO Pascual's (**Board Review 14**), PO Rivera's (**Board Review 15**), and Sgt. Seo's (**Board Review 16**) testimony was generally consistent. They testified that § 87(2)(b) was recording inside of the stationhouse, that he was told to stop, and that he refused. They testified that § 87(2)(b) was asked to leave and that he exited the stationhouse. None of the three officers recalled if § 87(2)(b) requested PO Espinal's name, shield number, or business card.

NYPD Administrative Guide, 304-21 (Board Review 17), states that individuals have a right to lawfully record police activity in public places, such as streets and sidewalks which can be limited for reasons such as officers' safety, or when the recording individual is violating a law. Officers are prohibited from intentionally or attempting to prevent an individual from recording. However, members of the public are not allowed to record police activity within department facilities and officers are to order individuals to stop recording and if they refuse, request they leave.

§ 87(2)(b) acknowledged recording inside of the stationhouse. Per NYPD Administrative Guide 304-21, filming in the stationhouse is not allowed and any member of service may request that the person stop, and if they refuse, to tell them to leave. § 87(2)(g)

§ 87(2)(b) alleged he requested PO Espinal's name, shield number, and business card. However, while § 87(2)(b) Go-Pro footage captures him telling PO Pascual that he is generally requesting business cards, it does not capture any specific request directed to PO Espinal. The footage does capture § 87(2)(b) requesting PO Espinal's name and shield number, which he provides. However, as PO Espinal is providing his shield number, § 87(2)(b) interjects to say "Okay" verbally acknowledging receipt of the information and proceeds to direct a request for information to a different officer. At no point does § 87(2)(b) repeat his request for PO Espinal's information. § 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Anthony Rivera refused to provide his name to § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Anthony Rivera refused to provide his shield number to § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Anthony Rivera failed to provide § 87(2)(b) with a business card.

Allegation (G) Abuse of Authority: Sergeant Seungwoo Seo interfered with § 87(2)(b) use of a recording device.

§ 87(2)(b) testified (**Board Review 13**) that after he was told he could not record inside he asked PO Rivera, "What's your name and badge number?" PO Rivera said, "it's right here," pointed to his shield on his chest, but did not verbally provide his name or shield number. § 87(2)(b) said, "Is that what you're going to tell the judge when I bring you to court?" and exited the stationhouse. He approached Sgt. Seo who was standing outside and asked about the police report he wanted to file. Sgt. Seo told § 87(2)(b) that he could not be outside the stationhouse and said, "This is private property. This is a New York City facility." § 87(2)(b) asked, "Even the sidewalk?" Sgt. Seo repeated that it was private property three more times. § 87(2)(b) pleaded with several uniformed officers standing nearby who did not respond and walked away. Sergeant Rosanna Blaire of the 63rd Precinct and Captain Daryll Smallwood of the 62nd Precinct exited the stationhouse while speaking with each other. § 87(2)(b) approached Captain Smallwood and explained his previous interaction with police. § 87(2)(b) pointed out PO Pascual and Captain Smallwood directed her to take his report. PO Pascual and § 87(2)(b) walked towards the stationhouse. Right before entering, § 87(2)(b) asked PO Rivera, who stood at the top of the steps next to the front doors, "Can I have your business card?" PO Rivera allegedly did not respond or provide his business card.

As discussed above, § 87(2)(b) Go-Pro footage (**Board Review 09**) captures PO Rivera pointing to his shield after § 87(2)(b) requested his name and shield number.

§ 87(2)(b) second Go-Pro video (**Board Review 10**) opens with § 87(2)(b) speaking to Sgt. Seo on the sidewalk in front of the stationhouse. § 87(2)(b) requests a police report and Sgt. Seo says "Sir. You are in a police facility. You can't have your camera on." At 00:09, § 87(2)(b) says, "I'm outside. This is a public sidewalk, sir." Sgt. Seo replies, "No. It's not." § 87(2)(b) says, "So, you guys are making up things?" Sgt. Seo makes a circular gesture and says, "This is a police facility." § 87(2)(b) argues that that he can record and Sgt. Seo replies, "No. This is a police facility. It's a private [sic]. This is a private property. It's the City of New York property. You're not allowed to record in City of New York property." At 00:44, Sgt. Seo says, "Can you turn your body camera off, please?" § 87(2)(b) says, "No. I can't. I'm outside. Look. I'm outside, correct? I can do whatever I want..." Sgt. Seo tells § 87(2)(b) "You have to leave this facility, sir." At 01:01, Sgt. Seo replies, "I understand, but you have to turn your body camera off." § 87(2)(b) asks nearby officers if they agree before several of them, including Sgt. Seo, walk away. At 02:00, Captain Smallwood exits the stationhouse. § 87(2)(b) approaches PO Rivera and asks for his business card. He agrees and enters the stationhouse. At 02:22, § 87(2)(b) approaches Captain Smallwood and Sgt. Blaise, and he discusses his earlier interaction with police. PO Pascual and PO Rivera approach. At 03:01, § 87(2)(b) requests PO Rivera's business card again. PO Rivera agrees and re-enters the stationhouse. § 87(2)(b) explains to Captain Smallwood that he would like to make a police report against his wife. At 04:22, Captain Smallwood activates his BWC. At 05:25, PO Rivera exits the stationhouse and approaches § 87(2)(b) while extending his right hand with a business card in it. § 87(2)(b) shuts off his camera.

Captain Smallwood's BWC (**Board Review 01**) captures § 87(2)(b) discussing his police report and disagreeing with several officers regarding his ability to record. At 02:06, PO Rivera holds out his business card. Captain Smallwood tells § 87(2)(b) "They're going to give you their business card there." § 87(2)(b) takes PO Rivera's business card. At 02:53, § 87(2)(b) and Sgt. Blaise walk towards the main entrance.

Sgt. Seo testified (**Board Review 16**) that he ordered § 87(2)(b) to shut off his camera and that he could not have a recording device inside of the stationhouse. Sgt. Seo said this was due to NYPD policy, which is in place for the privacy of victims. Sgt. Seo said civilians are allowed to record

“outside” the stationhouse and further defined “outside” as a public sidewalk. Sgt. Seo was shown Go-Pro footage contained in IA#55 of the digital case file, from the 00:00 minute mark to the 01:30 minute mark, which depicts § 87(2)(b) and Sgt. Seo arguing outside of the stationhouse. Sgt. Seo acknowledged telling § 87(2)(b) to stop recording while outside on the public sidewalk and said he did so because from § 87(2)(b) position outside he was recording the inside of the stationhouse vestibule. Sgt. Seo said that § 87(2)(b) Go-Pro was flashing a recording light, and he was facing the vestibule which is how he knew the camera was recording the inside of the stationhouse. As the purpose of the no-filming policy is for the privacy of the victims who may have been visible in the footage, Sgt. Seo told § 87(2)(b) to stop filming. Sgt. Seo said § 87(2)(b) was not violating any laws, there were no safety concerns about him, and he was not interfering with any police action. Sgt. Seo did not have an independent recollection of § 87(2)(b) requesting names, shield numbers, or business cards from any officer.

PO Rivera testified (**Board Review 15**) that § 87(2)(b) requested his name, shield number, and a business card while in the vestibule. PO Rivera pointed to his shield and then verbally provided his name and shield number. § 87(2)(b) requested PO Rivera’s business card and exited to speak with Captain Smallwood who was standing outside. § 87(2)(b) and Captain Smallwood spoke for roughly a minute before Captain Smallwood directed PO Rivera to provide § 87(2)(b) with his business card. PO Rivera entered the stationhouse, retrieved a pre-printed business card, and provided it to § 87(2)(b). During the CCRB interview, Go-Pro footage from IA#54 of the digital case file was played from the 2:00 minute mark to the 2:50 minute mark. PO Rivera said he provided his name and shield verbally after the conclusion of the Go-Pro video and in addition later provided him with a business card containing that information.

NYPD Administrative Guide, 304-21 (Board Review 17), states that individuals have a right to lawfully record police activity in public places, such as streets and sidewalks which can be limited for reasons such as officers’ safety, or when the recording individual is violating a law. Officers are prohibited from intentionally or attempting to prevent an individual from recording. However, members of the public are not allowed to record police activity within department facilities and officers are to order individuals to stop recording and if they refuse, request they leave.

§ 87(2)(b) alleged PO Rivera refused to provide his name and shield number and failed to provide a business card upon his request. However, the available footage captures PO Rivera providing a business card to § 87(2)(b) § 87(2)(g)

It is undisputed that § 87(2)(b) was recording police activity on a public sidewalk. It is also undisputed that he was not committing any crimes and was not a safety threat. Sgt. Seo acknowledged telling § 87(2)(b) to stop recording while he was on a public sidewalk and the available footage captures him doing so. Sgt. Seo acknowledged that civilians are allowed to film on public sidewalks outside of department facilities. Although Sgt. Seo subsequently stated he ordered § 87(2)(b) to stop recording because the device’s position captured the interior of the stationhouse, § 87(2)(g)

§ 87(2)(b) was on a public sidewalk, was not violating any law, and did not pose any threat to safety. § 87(2)(g)

Allegation (H) Abuse of Authority: Police Officer Melissa Pascual refused to provide her name to § 87(2)(b)

Allegation (I) Abuse of Authority: Police Officer Melissa Pascual failed to provide § 87(2)(b)

§ 87(2)(b) with a business card.

§ 87(2)(b) testified (**Board Review 13**) that while inside the stationhouse, PO Pascual processed § 87(2)(b) police report and that when it was completed, § 87(2)(b) asked her for her business card. PO Pascual crossed out PO Blaire's printed name and shield number on a card and wrote her name and shield number. § 87(2)(b) took the business card and left. Approximately 20 minutes later, § 87(2)(b) returned to the stationhouse because the business card PO Pascual provided was illegible, and he could not make out her name or shield number. § 87(2)(b) went inside, saw PO Pascual, and said he could not read her name and shield number. PO Pascual said, "It's right there." § 87(2)(b) repeated that he could not read it and asked her to spell it aloud for him to write down. PO Pascual verbally provided her shield number but not her name, and § 87(2)(b) left.

§ 87(2)(b) third Go-Pro video (**Board Review 11**) opens to § 87(2)(b) holding PO Pascual's business card. At 01:53, § 87(2)(b) arrives at the 63rd Precinct stationhouse and enters the vestibule. At 03:01, PO Pascual stands at the door between the vestibule and the rest of the stationhouse and asks, "Do you need something?" At 03:02, § 87(2)(b) holds out PO Pascual's business card and says, "I need your badge number." PO Pascual points to the card and says, "That is the badge number. 7-9-0." At 03:05, § 87(2)(b) asks, "Where is the badge number? Can you explain it to me, please? Can you explain your name because I can't understand it?" At 03:11, PO Pascual says, "It's P-A-it's written there. I don't need to spell anything for you." § 87(2)(b) says, "Give me a pen, please." PO Pascual replies, "It's already on there, sir. We don't need to go forward with this." § 87(2)(b) says, "I can't understand. I was home on my computer trying to file a complaint. I can't understand." At 03:21, PO Pascual says, "7-9-0 is my shield number. It's unique to my name." § 87(2)(b) replies, "I don't see it. Where is it?" At 03:24, PO Pascual says, "It's—I could see it from here. That's something you need to work on." § 87(2)(b) asks, "Where?" At 03:27, PO Pascual says, "You better not be recording me." § 87(2)(b) asks, "Where is it?" At 03:29, PO Pascual says, "I'll tell you right now. I don't need to spell anything for you. I already gave it to you." § 87(2)(b) says, "7-9-0?" At 03:32, PO Pascual replies, "Correct. That's all you need. Goodbye," and shuts the door. § 87(2)(b) leaves the stationhouse.

PO Pascual testified (**Board Review 14**) that she did not recall if § 87(2)(b) requested the spelling of her name and did not recall if she provided it. She said that her name was already on a business card and on a copy of the police report, specifically a domestic incident report (DIR), she provided earlier. She verbally stated her shield number to § 87(2)(b) and said it was going to be unique to her. § 87(2)(b) told her to learn her laws and left. PO Pascual was presented with § 87(2)(b) third Go-Pro video contained in IA#56 of the digital case file. She said she did not spell out her name upon request as § 87(2)(b) already had the information on a business card, on the DIR, and from their previous conversation. When asked if she would provide a new business card to a civilian who said they did not understand the original business card, PO Pascual said no. PO Pascual was presented with a photograph of the business card in question, which is at the top of the frame and contains PO Pascual's signature and badge number (**Board Review 18**). PO Pascual confirmed that it was the card given to § 87(2)(b) and that it would be the same signature that would be on the carbon copy of the DIR and that there would not be a printed version of her name.

A request for the DIR from NYPD legal was returned with negative results (**Board Review 19**).

NYPD Administrative Guide, 304-11 (**Board Review 17**) states that officers must courteously and clearly state their rank, name, shield number, and command, or otherwise provide them upon request. Additionally, upon request, officers must offer a generic business card with identification information written down legibly or allow the member of the public ample time to write down the identification information if the supply of pre-printed or generic business cards becomes depleted.

It is uncontested that § 87(2)(b) returned to the stationhouse, requested PO Pascual's name, and she refused to provide it. Although PO Pascual testified that she did not provide her name because § 87(2)(b) had already received the information earlier, the footage captures § 87(2)(b) clearly express that he did not understand the business card and additionally requested a pen so that he may write down her information. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b) § 87(2)(b)
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 - § 87(2)(b)
- PO Rivera has been a member of service for two years and this is the first CCRB complaint to which he has been a subject.
- PO Espinal has been a member of service for six years and has been a subject in one additional CCRB complaints and one allegation which was not substantiated. § 87(2)(g)
- Sgt. Seo has been a member of service for 16 years and has been a subject in 12 additional CCRB complaints and 19 allegations none of which were substantiated. § 87(2)(g)
- PO Pascual has been a member of service for six years and has been a subject in four additional CCRB complaints and seven allegations, of which one was substantiated:
 - Case#201708493 involved one allegation of a forcible removable to hospital which was closed as exonerated.
 - Case#201802581 involved one allegation of refusal to obtain medical treatment and one allegation of discourtesy word, which were closed as unsubstantiated.
 - Case#202203988 involved one substantiated allegation of a discourteous word and one exonerated allegation of use of a nonlethal restraining device. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.
 - Case#202107842 involved one allegation of interference with a recording device and one allegation of a threat of arrest. To date this investigation is still open.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.

- As of October 3, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (**Board Review 21**).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Squad: 08

Investigator:	<u>Daniel Talero</u> Signature	<u>Inv. Daniel Talero</u> Print Title & Name	<u>12/15/22</u> Date
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Squad Leader:	<u>Ethan De Angelo</u> Signature	<u>IM Ethan De Angelo</u> Print Title & Name	<u>12/15/2022</u> Date
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